



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/857,256

06/01/2001

Charles A Eldering

T702-15

4893

27832

7590

07/27/2006

TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
2003 SOUTH EASTON RD
SUITE 208
DOYLESTOWN, PA 18901

EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,256

Applicant(s)

ELDERING ET AL.

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 191-198, 231-233, 236-240, 252 and 260-267 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 191-198, 231-233, 236-240, 252 and 260-267 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/06/6/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 191-193, 196-198, 231-233, 260-262 and 265-267 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6177,931)**.

As to claims 191-193, 196-198, 231-233, 260-262 and 265-267, Alexander teaches many of the elements in the claims.

Alexander can be applied to teach an apparatus and method for generating a subscriber profile for a user of television programming (profile is described in section H starting in col.28), the method comprising:

Monitoring user viewing activities (col.28, lines 30-32);

Collecting subscriber selection data based on source material selected by the user over a predetermined period of time (col.28 lines 33-45 wherein channel change is selection, source could be channel number or EPG vs non-EPG and 'each time' this happens is considered all of the time, also note the external sources in col.28, lines 60-62); and

Processing the subscriber selection data to create a subscriber profile (i.e. viewer profile), where in said processing the subscriber selection data includes generating one or more program characteristics vectors based on the subscriber selection data (the

Art Unit: 2623

identification information described that is stored is considered a vector since is at its basic element a number or one dimensional vector, also see col.29, Section 2).

Many claims require that the profile be calculated by heuristic rules, such as 191, 196, 231, 260 and 265. While Alexander fails to use the term heuristic rules, he does teach that using the basic viewer profile data the simple statistics collected about a particular viewer, the profile program learns to recognize a finer breakdown about the various types of data collected and uses the learned information to describe a viewer preference and furthermore the profile program performs multiple levels of sophisticated analysis and learning involving numerous comparisons of basic viewer profile data and the simple statistics collected about a particular viewer (col.28, lines 11-21 and col.29, line 56-col. 30, line 16). Since the learning process involves the use of statistical data or set of rules, it would have been obvious to one of ordinary skill to combine heuristic rules with the teachings of Alexander to quickly determine user preferences to gain more revenue in targeted advertising (Alexander col.29, line 10).

3. Claims 192-195, 197-198, 236-240, 252, 261-264 and 266-267 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6177,931)** and further in view of **Rosser (6,446,261)**.

As shown above Alexander teaches many of the elements in the claims.

Many claims require the data for profiling includes predictive values such as: household demographics, household interests, product of interest, age, income and

Art Unit: 2623

gender of the user, household program interest, etc., (such as 194-195, 236, 239, 240, 252 and 263-264). While Alexander fails to explicitly predictive values, etc., he does teach where the EPG is capable of distinguishing between individual viewers and uses various learning process to develop a profile for each viewer and for the family and providing programs for individual users or family (col.28, lines 11-21 and col.29, lines 56-col.30, line 46). However in the same field of endeavor, **Rosser** teaches such technique, such as monitoring the usage and viewing habits of the TV set or other video reception device to determine profile factors to different degrees of accuracy from different amounts of data and further performs a good probability to predict important profile factors such as gender, age, income, etc., of a user and a household (col.7, lines 21-51, col.8, lines 20-col.9, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rosser into the system of Alexander to generate various predictive factors to enable the provider to determine a user or household profile and target specific multimedia data, such as programs, advertisement, etc., that may be of interest to the viewer(s) or household to gain more revenue.

Response to Arguments

4. With respect to independent claims 191, 196, 231, 260 and 265, Applicant's arguments filed 04/03/06 have been fully considered but they are not persuasive.

Applicant discusses the ordinary meaning of "Heuristic Rules" and argues that Alexander process of using multi-levels of sophisticated analysis to learn individual viewers and family to generate individual profile or family profile to target programs to the user or family is different than using heuristic rules (see page labeled 12+ of applicant's Remarks).

In response, examiner disagrees. Examiner notes applicant's arguments, however as discussed in the last office action and repeated above, Alexander uses various experimental processes to solve a problem of generating a profile for a user(s) or household, if a user(s) declines to provide information to enable profiles to be generated and this problem solving process is done by an EPG monitoring program, which is capable of distinguishing between individual viewers, by using various learning process to develop a profile for each viewer and also for a family to aid in targeting programs/advertisement to individual users or family (col.28, lines 11-21 and col.29, lines 56-col.30, line 46) and since the learning process involves the use of statistical data or set of rules, it would have been obvious to one of ordinary skill to combine heuristic rules with the teachings of Alexander to quickly determine user preferences to gain more revenue in targeted advertising (Alexander col.29, line 10). Hence applicant's arguments are not persuasive, the 103(a) rejections of independent claims 191, 196, 231, 260 and 265 is proper, meet all the claimed limitations, maintained as discussed above.

Applicant's arguments with respect to claims 194-195, 236, 239, 240, 252 and 263-264, have been considered but are moot in view of the new ground(s) of rejection.

The amendment to the claims necessitated the new ground(s) of rejection discussed above. This office action is made final.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hawkins et al (6,005,561) disclose interactive information delivery system.

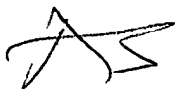
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.



Annan Q. Shang



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600